I affirm, and value justice, since the resolution is a question of the appropriate structure of social institutions and the distribution of rights. Justice comes lexically prior to other considerations – if the structure of society is unjust, maximizing other aspects of the institution, like its stability, cannot compensate.

#### The problems faced by political institutions must be resolved politically; an appropriate framework must provide a basis for justifying certain social structures within a pluralistic society

Rawls 85: John Rawls Harvard Philosophy Professor Justice as Fairness: Political not Metaphysical, Philosophy and Public Affairs, Vol. 14, No. 3. 1985.

It should be observed that, on this view, justification is not regarded simply as valid argument from listed premises, even should these premises be true. Rather, **justification is addressed to others who disagree** with us, **and** therefore it **must** always **proceed from** some consensus, that is, from **premises** that **we** and others publicly recognize as true; or better, **publicly recognize as acceptable** to us **for** the purpose of **establishing a working agreement on the fundamental questions of political justice.** It goes without saying that this agreement must be informed and uncoerced, and reached by citizens in ways consistent with their being viewed as free and equal persons." Thus, **the aim of justice as** fairness as **a political conception is practical,** and **not metaphysical or epistemological.** That is, **it** presents itself not as a conception of justice that is true, but one that **can serve as a basis of** informed and willing **political agreement** between citizens viewed as free and equal persons. This agreement when securely founded in public political and social attitudes sustains the goods of all persons and associations within a just democratic regime. **To secure** this **agreement we** try, so far as we can, to **avoid disputed philosophical,** as well as disputedmoraland religious, **questions.** We do this not because these questions are unimportant or regarded with indifference,'= but **because we** think them too important and **recognize that there is no way to resolve them politically.** The only alternative to a principle of toleration is the autocratic use of state power. Thus, justice as fairness deliberately stays on the surface, philosophically speaking. Given the profound differences in belief and conceptions of the good at least since the Reformation, we must recognize that, just as on questions of religious and moral doctrine,public agreement on the basic questions of philosophy cannot be obtained without the state's infringement of basic liberties. **Philosophy as the search for truth about an independent metaphysical and moral order cannot,** I believe, **provide a workable** and shared **basis for a political conception of justice** in a democratic society. We try, then, to leave aside philosophical controversies whenever possible, and look for ways to avoid philosophy's longstanding problems.

Thus: a) offense must link to a post-fiat policy– social justice prescribes institutional requirements; institutions are presupposed. b) social justice is practical; even if your framework is epistemically prior, it answers the wrong question, so my framework precedes. Pluralism demands political solutions, c) this outweighs other conceptions – the resolution asks about a specific distribution of rights in terms of a preexistent social structure.

#### Finding a fair social structure is most important since the organization of society has a profound impact on an individual’s life path; the primary concern of justice must be to structure institutions such that arbitrary matters do not shape the entirety of someone’s life

Rawls 85: John Rawls Harvard Philosophy Professor Justice as Fairness: Political not Metaphysical, Philosophy and Public Affairs, Vol. 14, No. 3. 1985. 176-77.

Many different kinds of things are said to be just [:]and unjust: not only laws, institutions, and social systems, but also particular actions of many kinds, including decisions, judgments, and imputations. We also call the attitudes and dispositions of persons, and persons themselves, just and unjust. Our topic, however, is that of social justice. For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. By major institutions I understand the political constitution and the principal economic and social arrangements. Thus the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the monogamous family are examples of major social institutions. Taken together as one scheme, the major institutions define men’s rights and duties and influence their life prospects, what they can expect to be and how well they can hope to do. **The basic structure is the primary subject of justice because its effects are so profound and present from the start.** The intuitive notion here is that **this structure contains various** social positions and that men **[people] born into different positions [who] have different expectations of life determined, in part, by the political system as well as by economic and social circumstances.** In this way the **institutions of society favor certain starting places** over others. **These** are especially **deep inequalities.** Not only are they pervasive, but they **affect men’s initial chances in life; yet they cannot** possibly **be justified by** an appeal to the notions of merit or **desert. It is these inequalities,** presumably inevitable in the basic structure of any society, **to which the principles of social justice must** in the **first** instance **apply. These principles,** then, **regulate the choice of** apolitical constitution and **the** main elements of the economic and **social system.** The justice of a social scheme depends essentially on how fundamental rights and duties are assigned and on the economic opportunities and social conditions in the various sectors of society.

This hijacks the NC – if certain people have more power than others when they enter a contract, principles will favor individuals with privilege; a just social contract concerns equal parties so that the structure of society has a just basis.

#### Individuals thus must imagine themselves in the original position, a place where they conceive of themselves as purposeful agents with particular desires, but do not know their specific conception of the good or their social location, and have the power to determine principles that govern society. This enables the best construction of moral principles: a) it divorces persons from the subjective circumstances of judgment which cause disagreements that result in inability to respect others ends; self-interest clouds our judgment b) it enables representation of different viewpoints within a pluralistic society; even if people disagree about the choices others make, they can respect the principle of making choices

Thus, the standard is consistency with principles chosen behind the veil of ignorance.

Prefer the standard:

#### Ethics is constructivist – ethical norms are derived from the nature of ethical problems themselves

Korsgaard 8 summarizes, Christine. Harvard Professor. *The Constitution of Agency.* 2008, Oxford University Press. NP 9/2/15

So according to constructivism, normative concepts are not (in the first instance—a caveat I will explain below) the names of objects or of facts or of the components of facts that we encounter in the world. They are the names of the solutions of problems, problems to which we give names to mark them out as objects for practical thought. The role of the concept of the right, say, is to guide action: the role of the concept of the good might be to guide our choice among options, or of ends. The ‘‘thinness’’ of these concepts, to use Williams’s language, comes from the fact that they are, so far, only concepts, names for whatever it is that solves the problems in question. We need conceptions of the right and the good before we know how to apply the concepts. The task of practical philosophy is to move from concepts to conceptions, by constructing an account of the problem reflected in the concept that will point the way to a conception that solves the problem. To produce a constructivist account 43 This discussion is extracted from SN 3.4.1–3.4.3, pp. 113–16. 44 When we think of the subject this way, we will not be inclined to think that there is a difference between doing ‘‘meta-ethics’’ and doing ‘‘normative’’ or practical ethics. The attempt to specify the meaning and reference of an ethical concept will point fairly directly to practical ramifications. This represents another way in which constructivists break with the platitudes of twentieth-century ethics—and return to the more substantive ethical theorizing of the past. ￼￼￼￼￼￼of the right or the good is to ask: is there some feature of the problem itself, or of the function named by the concept, that will show us the way to its solution? The feature of the problem of liberal justice that shows us the way to its solution, according to Rawls, is that a liberal society must respect the freedom of its members while enabling them to pursue their conceptions of the good. The feature of the problem of free action that shows us the way to its solution, according to Kant, is that free action must be determined by the agent herself. It may seem at first glance as if on a constructivist account there is something very special about the moral or normative domain. All of our other concepts, one might think, name things in the world, or perhaps things which track things in the world, while ethical concepts gesture at practical problems and their solutions.45 But even leaving aside the question whether this is a correct account of our scientific concepts, the idea that some of our everyday concepts refer to the solutions to problems is perfectly familiar. To see this, consider artifact concepts—consider, for example, the concept of ‘‘chair.’’ Why do we have the concept of chair? Certainly not because it would form part of the absolute conception of the world, for those alien investigators with whom we are to share that conception might, for all we know, be oval creatures who swim through their environment like fish, and never sit down. We have the concept of ‘‘chair’’ [but] because the physical construction of human beings makes it possible, and occasionally necessary, to sit down. So the concept of chair is functional; a chair is something that plays a certain necessary role in human life, and the conception of chair is filled out by asking what sorts of things can properly fill that role. The person who first came up with a conception of chair probably was also the first who constructed an object—a chair—to fit that concept, and so to solve the human problem that it represents. To this extent constructivism makes moral concepts like the concepts of artifacts. This doesn’t make them arbitrary or relative, for there are kinds of artifacts—‘‘chair’’ is an example—that all human beings in all human cultures have some version of, and that have to have certain features given the problems that they solve. Williams, you may recall, said that the values of a culture are ‘‘part of their way of living, a cultural artifact they have come to inhabit (though they have not consciously built it).’’46 But why shouldn’t we consciously build our social world, or our political societies, or for that matter our practical identities? This, according to a constructivist, is what practical philosophy is all about. 45 But see note 34. 46 Williams, Ethics and the Limits of Philosophy, p. 147. Realism and Constructivism 323 ￼ ￼￼￼￼￼￼324 Other Reflections ￼And of course none of this means that moral language doesn’t admit of truth and falsehood, any more than it means that artifact language doesn’t admit of truth and falsehood. For the correct conception of a concept will be a guide to its correct application, and when a concept is applied correctly, what we get is truth. But what makes the conception correct will be that it solves the problem, not that it describes some piece of external reality. Rather, as the term ‘‘constructivism’’ suggests, our use of the concept when guided by the correct conception constructs an essentially human reality—the just society, the Kingdom of Ends—that solves the problem from which the concept springs. The truths that result describe that constructed reality.

#### We must derive justice from the principles chosen in the original position; only there can action be considered free

Freeman 3, Samuel. "7 Congruence and the Good of Justice." The Cambridge Companion to Rawls (2003): 277.

**According to** the “Kantian interpretation” of justice as fairness (TJ, Sec. 40), and what Rawls later calls “**Kantian Constructivism**,”30 **justice is construed as those principles that would be justified** to, **and accepted by, everyone under conditions that characterize them as “free and equal** moral **persons”** (or “free and equal rational beings,” in Theory, p. 252/222 rev.). **The original position specifies these conditions**; it is a “procedural interpretation” of our nature as free and equal rational beings (TJ, p. 256/226 rev.).31 Rawls says that, **by acting from** the **principles that would be chosen from this standpoint, persons express their nature as free and equal rational beings subject to** the **general conditions of human life.** For **to express one’s nature as a being of a particular kind is to act on** the **principles that would be chosen if this nature were the decisive determining element....** One reason for [acting from the principles of justice], for persons who can do so and want to, is to give expression to one’s nature. (TJ, pp. 252–3/222 rev., emphases added) Conjoining this conception of the person with the formal account of rationality and the Aristotelian principle, we can identify the focal points of Rawls’s Kantian argument for congruence as follows:32 1. On the basis of the Kantian interpretation, persons seen as moral agents are by their nature free and equal rational beings (TJ, p. 252/222 rev.) (or, the same idea in Theory, “free and equal moral persons” TJ, p. 565/495 rev.)33 **Rational agents** in a well-ordered society (WOS) **conceive of themselves** in this way **“as primarily moral persons”** (TJ, p. 563/493 rev.).34 2. Rational members of a WOS **[who] “desire to express** their **nature as free and equal moral persons,”** (TJ, pp. 528/462–3 rev., 572/501 rev.). (Rawls evidently sees this as a nonarbitrary rational desire.) Combined with the formal account of a persons’s good under the thin theory, this implies, 3. Members of a WOS **[and] desire to have a** rational **plan of life consistent with** their **nature;** which implies, in turn, a “fundamental preference ... for conditions that enable [them] to frame a mode of life that expresses [their] nature as free and equal rational beings” (TJ, p. 561/491 rev.). 4. **Having a plan of life compatible with** the **desire to express** their **nature as free and equal rational beings requires that persons act from principles that “would be chosen if this nature were the decisive determining element”** (TJ, 253/222 rev.).This is the original position: it specifies conditions that characterize or “represent” individuals as free and equal moral persons in the Kantian interpretation (TJ, pp. 252, 515, 528/221, 452, 462–3 rev.).35 5. In its standard interpretation, **the original position is designed to “make vivid to ourselves** the **restrictions that it seems reasonable to impose on arguments for principles of justice”** (TJ, p. 18/16 rev.). **It embodies fair conditions of equality that you and I (presumably) find appropriate for an agreement on principles to regulate the basic structure of society.** 6. The normally effective desire to apply and act upon principles that would be agreed to from an original position of equality is the sense of justice (TJ, pp. 312/275 rev., 478/418 rev.). 7. Taken together, 4–6 suggest that the desire to act in ways that “express one’s nature” as a free and equal rational being is “practically speaking” the same desire as the desire to act upon principles of justice acceptable from an original position of equality (TJ, p. 572/501 rev.).36 8. Thus, for individuals in a WOS to achieve their desire to realize their nature as free and equal rational beings requires that they act on, and from, their sense of justice (TJ, p. 574/503 rev.). 9. By the Aristotelian principle, it is rational to realize one’s nature by affirming the sense of justice. “From the Aristotelian Principle it follows that this expression of their nature is a fundamental element of [the] good” of individuals in a well-ordered society (TJ, p. 445/390 rev.).37 10. The sense of justice is, by virtue of its content (what it is a desire for) a supremely regulative disposition: it requires giving first priority to the principles of right and justice in one’s deliberations and actions (TJ, p. 574/503 rev.). 11. To affirm the sense of justice is to recognize and accept it as supreme by adopting it as a highest-order regulative desire in one’s rational plan.38 12. **To have justice as a highest-order end is the most adequate expression of our nature as free and equal rational beings and is to be autonomous** (cf. TJ, p. 515/452 rev.). **Autonomy is** then **an intrinsic good for free and equal moral persons.**

Impact calculus:

1. We should look to the core of the principle – the resolution is a question of whether owning handguns is legitimate, since, a) it asks if we want a society in which people are allowed to have guns. B) the framework is concerned with constructing principles that ought to govern society; our current political system prevents critical discussions about the role of guns in society by focusing on myths about NRA clout and the legitimacy of the second amendment, but the core discussion relates to whether those fights are worth having – i.e. if people should own guns

Stock 13. Gun Control and the Veil of Ignorance By Andrew Stock Stock, Andrew (2013-02-02). Gun Control and the Veil of Ignorance (An Essay) (Kindle Locations 2-3). . Kindle Edition. NP 3/20/16.

In my humble estimation, too much of the current gun debate is focused on where we are now with guns and too little on what the ideal role of guns **would** be if we could start afresh. It’s true we have roughly 300 million guns in circulation, and it’s true we have a Second Amendment (2A) that has been interpreted by the Supreme Court to give citizens broad rights in acquiring and keeping guns. But surely most could agree, whether Republican or Democrat, that America today is far from ideal when it comes to the consequences of our current gun policies and laws. No sane person wants approximately 10,000 gun related fatalities each year in this country. But perhaps those deaths are simply the necessary cost of our ideal laws. Or, perhaps those deaths are a completely unnecessary cost of maintaining our far from ideal gun laws. Thus, it seems what we need is some sort of clearer picture of what ideal gun laws and policies in the United States would look like. And, of course, **this is where** I believe social contract theory could be of use. I have never heard of **Rawls’s veil of ignorance [may]** thought experiment **be**ing **utilized for the purpose of finding ideal gun control** laws and policies, but there seems to be nothing in his theory that would preclude it from profitably doing so.

C) behind the veil, different aspects of ethical questions are considered separately since ethics regards the legitimacy of the action, not the response. And, individuals can affirm a principle even if there are situations in which it can be misused since that disproves a specific instantiation of the rule, not its general truth. It’s a question of the legitimacy of owning guns, not ways a ban could go wrong.

1. Extinction impacts don’t turn the aff – the principles that govern society do not need to be maximized, rather, we must make claims on the current state. If any risk of extinction is possible to overcome extreme injustice we’d abstract away from present injustices by failing to recognize how individuals are mistreated within present social structures.
2. The primary goods are the ability to form a conception of justice and pursue it

**Pogge and Kosce 7,** Thomas Winfried Menko Pogge, Michelle Kosce. John Rawls: His Life and Theory of Justice. Oxford University Press 2007. New York, NY. NP.

**Rawls proposes three** such **interests** (PL 74–75). **The first two** of these **are interests in developing and exercising two moral powers, defined as the capacity for a sense of justice and the capacity for a conception of the good. The first interest is** realized insofar as one has developed a sense of justice,that is, **the ability and desire to govern one's conduct in accordance with a shared public conception of justice** (Rawls's or another)**. The second interest is** realized insofar as one has **the ability to form, to revise, and rationally to pursue a conception of the good—a** conception of a **life worth living. The third is the interest in being successful in terms of the particular conception of the good one has chosen.** In Rawls's three‐tier theory, **any** candidate public **criterion of justice is to be assessed by how well these three citizen interests would be fulfilled in societies whose citizens' institutional design decisions are guided by this criterion.**

I defend that the United States Federal Government ought to ban private ownership of handguns. If you want me to specify further, I’ll defend fines as a punishment for handgun possession, and confiscation.

**Prefer the standard:**

**The original position is able to reconcile important philosophical beliefs with underlying intuitions to form a coherent conception of justice.**

Rawls 99, John. A Theory of Justice. The Belknap Press of Harvard University Press. Cambridge, Massachusetts. Copyright 1971, revised in 1999 by the President and Fellows of Harvard College. p197. NP.

There is, however, another side to justifying a particular description of the original position. This is to see if the principles which would be chosen match our considered convictions of justice or extend them in an acceptable way. We can note whether applying these principles would lead us to make the same judgments about the basic structure of society which we now make intuitively and in which we have the greatest confidence; or whether, in cases where our present judgments are in doubt and given with hesitation, these principles offer a resolution which we can affirm on reflection. There are questions which we feel sure must be answered in a certain way. For example, we are confident that religious intolerance and racial discrimination are unjust. We think that we have examined these things with care and have reached what we believe is an impartial judgment not likely to be distorted by an excessive attention to our own interests. These convictions are provisional fixed points which we presume any conception of justice must fit. But we have much less assurance as to what is the correct distribution of wealth and authority. Here we may be looking for a way to remove our doubts. We can check an interpretation of the initial situation, then, by the capacity of its principles to accommodate our firmest convictions and to provide guidance where guidance is needed. In searching for the most favored description of this situation we work from both ends. We begin by describing it so that it represents generally shared and preferably weak conditions. We then see if these conditions are strong enough to yield a significant set of principles. If not, we look for further premises equally reasonable. But if so, and these principles match our considered convictions of justice, then so far well and good. But presumably there will be discrepancies. In this case we have a choice. We can either modify the account of the initial situation or we can revise our existing judgments, for even the judgments we take provisionally as fixed points are liable to revision. By going back and forth, sometimes altering the conditions of the contractual circumstances, at others withdrawing our judgments and conforming them to principle, I assume that eventually we shall find a description of the initial situation that both expresses reasonable conditions and yields principles which match our considered judgments duly pruned and adjusted. This state of affairs I refer to as reflective equilibrium.7 It is an equilibrium because at last our principles and judgments coincide; and it is reflective since we know to what principles our judgments conform and the premises of their derivation. At the moment everything is in order. But this equilibrium is not necessarily stable. It is liable to be upset by further examination of the conditions which should be imposed on the contractual situation and by particular cases which may lead us to revise our judgments. Yet for the time being we have done what we can to render coherent and to justify our convictions of social justice. We have reached a conception of the original position. I shall not, of course, actually work through this process. Still, we may think of the interpretation of the original position that I shall present as the result of such a hypothetical course of reflection. It represents the attempt to accommodate within one scheme both reasonable philosophical conditions on principles as well as our considered judgments of justice. In arriving at the favored interpretation of the initial situation there is no point at which an appeal is made to self-evidence in the traditional sense either of general conceptions or particular convictions. I do not claim for the principles of justice proposed that they are necessary truths or derivable from such truths. A conception of justice cannot be deduced from self-evident premises or conditions on principles; instead, its justification is a matter of the mutual support of many considerations, of everything fitting together into one coherent view.

#### Contention 1 is risk aversion:

#### Individuals behind the veil would prefer to promote a society where individuals are free from guns since it would expose them to fewer risks

Kocsis 15, Michael. "Gun Ownership and Gun Culture in the United States of America." *Essays in Philosophy* 16.2 (2015): 154-179.

A third line of argument expands the reasoning of the American political philosopher John Rawls (1921-2002). In his Theory of Justice, v Rawls developed a series of now famous arguments about political justice which together provide a powerful method for reasoning about public dilemmas in a democratic state. In effect, Rawls offers a test of legitimacy in which a group of imaginary citizens deliberates and ultimately determines the governing institutions of the society they would later inhabit. The key constraint is what Rawls calls the “veil of ignorance.” Those who are chosen to determine society’s social institutions are barred from reasoning from a biased position. They are required to reason about social institutions as neutral citizens—that is, citizens unaware of personal markers such as gender, age, class, race and religion. Passing Rawls’s test allows us to say that a policy is legitimate; that it receives decisive sanction, not by the citizenry as a whole, but by an imaginary jury whose reasoning parallels as much as possible the mentality of the “perfect citizen.” **Rawls’s argument** reveals something unique about the American social contract; it **seeks to penetrate the rhetoric and partisanship that too often hinders political discourse.** At the deepest and most fundamental level, Rawls’s argument suggests that the expectations of individual citizens can be anticipated through the lens of a few central questions about the relationship between states and citizens. The most important conclusion according to Rawls is that those constrained by the veil of ignorance would insist on basic political rights and basic provision of resources for society’s disadvantaged members. **Those behind the veil of ignorance would demand that all positions in society—**even those of lower ranks on the social hierarchy—**remain safe and dignified. Each of us has but one life to live,** Rawls argued, **and thus we are unlikely to expose ourselves to serious risks.** Rawls’s conclusion may be debatable, but his rationale has inescapable implications. If it is true that perfectly neutral citizens would strongly favour a given policy, the policy is presumptively legitimate. When the issue of gun ownership is our application, we need simply to ask; would those behind Rawls’s veil of ignorance be convinced by the platform of the gun supporters, or would they instead endorse the arguments of gun ownership restrictors? Answers to this question bring us to the centre of the gun ownership dilemma, and if a decisive answer is be found, from here we might begin to see the path towards future reconciliation. All the lines of argument canvassed above would be reasonable threads for Rawls’s imaginary jurors to contemplate. Each would be “on the table”, as it were; permitted within the constraints of Rawls’s veil of ignorance. On can visualize, for example, Rawls’s hypothetical jurors contemplating in an unbiased way the capacity of guns as instruments of personal liberty, and the importance to citizens’ identity of pervasive social roles. But we must also consider how they would insist on restrictions for reasons of public safety. Regarding the pivotal question about whether those behind Rawls’s veil of ignorance would affirm or deny substantive rights of gun ownership, I don’t believe it is absolutely clear how we should answer. One thing we should acknowledge is that **Rawls’s jurors would be disposed to prefer gun safety—that is, freedom from guns,** as that argument was spelled out above. Rawls himself maintained **that those behind the veil of ignorance have only one life to live; their reasoning on public matters would tend towards prudence, caution and conservatism in relation to the risks of maximum social freedom.**

#### This outweighs turns – a) self-defense is just a myth – people aren’t protected by guns, carrying one is a more significant risk

Hemenway and Solnick 15. David Hemenway a, ⁎, Sara J. Solnick b. The epidemiology of self-defense gun use: Evidence from the National Crime Victimization Surveys 2007–2011. ac.els-cdn.com/S0091743515001188/1-s2.0-S0091743515001188-main.pdf?\_tid=0b1b005a-c118-11e5-867f-00000aab0f26&acdnat=1453474651\_7adb8b280d68ae78d89356de65e70ceb. a Harvard School of Public Health, 677 Huntington Avenue, Boston, MA 02115, USA b Department of Economics, University of Vermont, 237 Old Mill, Burlington, VT, USA. 21 April 2015. Preventive Medicine 79 (2015) 22-27. NP 1/22/16. (methodology for NCVS in footnote)[[1]](#footnote-1). NP 1/20/16.

Overall, our analyses of the NCVS data indicate that self-defense gun use is very rare**, and** victims virtually never use[d] guns in sexual assaults. The data also indicate that self-defense gun uses are far fewer than criminal gun uses. Most self-defense gun use is by males and occurs outside the home. Half of the self-defense gun uses occur in what appear to be non-violent crimes (e.g., verbal threats). The NCVS data provide little evidence that self-defense **gun use** reduces the likelihood of victim injury during a crime. The data do suggest that using a gun may be useful at preventing property loss, but not more effective than protective action using other weapons

#### b) scope – the worst off in society can’t use guns for self-defense; ownership only exposes them to adversity

Arkles 13. Gabriel Arkles. GUN CONTROL, MENTAL ILLNESS, AND BLACK TRANS AND LESBIAN SURVIVAL. (Associate Academic Specialist at Northeastern University School of Law). Southwestern Law Review. Vol. 42. [www.swlaw.edu/pdfs/lr/42\_4\_arkles.pdf](http://www.swlaw.edu/pdfs/lr/42_4_arkles.pdf) (2013). NP 1/4/16.

Because they are overwhelmingly targeted for violence and do not receive institutional protection from this violence, trans people of color and queer women of color are likely to genuinely need to defend themselves and their communities from violence. However, while according to law and public perception self-defense is justified,43 in practice the self-defense justification works more effectively for those accused of crimes against people with less privilege than they have. This dynamic explains why women are punished for fighting back against men who abuse them44 and why hate crime laws are used against the groups they are purported to benefit.45 Certain bodies are considered more worthy defense of than others.46 Famously, Bernhard Goetz, a white man, shot four young Black men he perceived as trying to rob him in a NYC subway.47 While many expressed outrage at Goetz’ racism, others acclaimed him as a hero.48 A mostly white jury acquitted him of murder.49 More recently, George Zimmerman, a mixed race Latino man who was widely perceived as white, shot Trayvon Martin, a young, unarmed Black man, and claimed he acted in self-defense. Zimmerman’s ability to claim self-defense was bolstered by the Blackness of his victim and his own perceived whiteness. Police accepted his account of Martin’s killing as true. Only after widespread public outcry did they question his story, ultimately arresting him for the murder.50 A jury acquitted him.51 Less famously, in the Jersey Seven case, young Black lesbians who defended themselves against an adult Black straight male attacker were promptly arrested and prosecuted.52 The young women were walking along a New York City street when Dwayne Buckle propositioned Patreese Johnson.53 When Johnson said no, Buckle became violent.54 Johnson’s friends came to her aid and they struggled.55 A couple of male bystanders joined the melee, trying to help the women.56 Buckle ended up getting stabbed.57 He recovered after emergency treatment.58 Mainstream media outlets depicted the young women in dehumanizing terms as a “gang of angry lesbians” and “wolf-pack” and reported Buckle’s self-depiction as a victim of a “hate crime” against a straight man.59 The women were the only ones arrested or charged.60 While a number of grassroots groups led by queer and/or trans people of color organized against the prosecution, widespread mainstream public outrage about the case never emerged.61 Johnson served almost eight years for her conviction arising from the incident.62

#### Contention 2. The desire to carry and own handguns is based on privileged individual’s desire to construct extra-legal realms to dominate minorities

Kautzer 15, Chad. (University of Colorado Denver) Good Guys with Guns: From Popular Sovereigntyto Self-Defensive Subjectivity. https://www.academia.edu/11636616/Chad\_Kautzer\_Good\_Guys\_with\_Guns\_From\_Popular\_Sovereignty\_to\_Self-Defensive\_Subjectivity\_Law\_and\_Critique\_26\_2015\_173\_187 8 April 2015. Springer Science. NP 4/7/16.

My students bring guns to class. This is troubling, not only because it poses obvious health risks to others, and to the gun-toting students themselves, but because it is indicative of an emergent and pernicious form of political subjectivity in the United States—one which engenders equally problematic notions of freedom, security and sovereignty. I refer to this subjectivity as self defensive. Its development has less to do with individual protection against criminality than with the defense of a raced and gendered form of autonomy and its ‘metaphysics of domination’ (Brown 1995,p. 6). The rapid liberalization of open- and concealed-carry laws, the proliferation of guns in public spaces and institutions, the reinterpretation of the Second Amendment of the US Constitution, and the abstraction and individuation of the Castle Doctrine in Stand Your Ground laws all contribute to the legalization of non-state violence to defend extra-legal relations of domination. It is therefore not crime that threatens this autonomy, but the perceived failure of the state to protect extra-legal spaces of rule that are necessary for maintaining the social structures of race and gender against gains made by feminist and anti-racist social movements. The newfound urgency in the legislative expansion of the right to self-defense, as well as extremist interpretations of this right, is a response to the threatened collapse of these spaces of domination and thus the means of identity constitution. 1 Since the state is accused of being unwilling to exercise its coercive powers to stabilize these relations of domination as it has in the past, individuals have sought to arrogate such powers to themselves; a privatization of state violence through the quasi-deputization of certain groups. While I argue that the self-defensive subjectivity supported by these develop-ments is new, it did not arise ex nihilo, but rather represents a quantitative-turned-qualitative shift within a long tradition of popular sovereignty in the United States. Historically, popular sovereignty has been predicated on the existence of spaces of lawlessness or states of exception in which private ‘sovereign subjects’ can exercise dominat[e]ion and non-criminal violence, be it over women, LGBTQ people, immigrants, racial minorities, prisoners, or in its most extreme form, slaves. Popular sovereignty, understood as a universal and abstract equality (de jure) among ‘the people’ for self-rule, has always contradicted its (de facto) operations as a mechanism of domination, which divides ‘the people’ (as a ﬁctional body) into actual sub-state relations of rule. The hallmark of this tradition is the disavowal of the social conditions of individual freedom through a process of objectiﬁcation and naturalization. This facilitates the practical relations that constitute the ruler orsovereign subjects through subjugating violence beyond the law. My analysis does not, as Foucault proposed, ‘cut off the King’s head’ (Foucault1980b, p. 121), or fully ‘escape from the juridical sovereignty and State institutions’, to focus instead on ‘the study of the techniques and tactics of domination’ (Foucault 1980a, b, p. 102). While I certainly advocate an analysis of power that focuses on relations of domination, my argument concerns how changes in the juridical mediation and thus facilitation of these relations produce a shift in the techniques and tactics deployed. The aforementioned recent and qualitative shiftin the tradition of popular sovereignty that gives rise to self-defensive subjectivity is the hyper-juridiﬁcation of this sovereign subject. In this case, the subject becomes strategic, and abstract right—whose invocation normally functions as a temporary reprieve from informal normative relations—is made ‘‘the exclusive point of reference for their own relation-to-self’’ (Honneth 2014, p. 87). As a consequence of this passionate attachment to abstract right, which is constitutive of subject formation, the subject has difﬁculty navigating an informal normative order in non-strategic ways and thus can no longer discern the appropriate normative conditions for the exercise of right. This is evidence of a social pathology insofar as the practices of subjects objectively undermine the social conditions of their own freedom, while they are subjectively incapable of comprehending the function of formal right in a larger normative (and informal) order. 2 Freedom is identiﬁed with the right of self-defense and the right of self-defense is identiﬁed with possession of a ﬁrearm. Most signiﬁcant for the diagnosis of a social pathology, there arises the rather peculiar notion that the individual right to self-defense and thus a ﬁrearm needs to be perpetually exercised. This one-dimensional understanding gives rise toa condition in which individuals believe their freedom relies upon carrying a ﬁrearm with them at all times and in all places, hence my armed students and the recent spate of right-to-carry laws.

Multiple implications – a. behind the veil, individuals would not want to own guns since this motivation would not be sufficient since it’s based on self-interest, b. extra-legal realms of domination could never be permitted; it diminishes individual’s ability to define their own life plan

Rawls 99, John. A Theory of Justice. The Belknap Press of Harvard University Press. Cambridge, Massachusetts. Copyright 1971, revised in 1999 by the President and Fellows of Harvard College. p197. NP.

We may take for granted that a democratic regime presupposes **freedom of speech and assembly, and liberty of thought and conscience**. These institutions **are not only required by the first principle of justice but,** as Mill argued, they are **necessary if political affairs are to be conducted in a rational fashion.** While rationality is not guaranteed by these arrangements, in their absence the more reasonable course seems sure to be rejected in favor of policies sought by special interests. If the public forum is to be free and open to all, and in continuous session, everyone should be able to make use of it. **All citizens should have the means to** be informed about political issues. They should be in a position to **assess how proposals affect their well-being and which policies advance their conception of the** public **good.** Moreover, **they should have a fair chance to add** alternative **proposals** to the agenda **for political discussion.**13 The **liberties** protected by the principle **of participation lose** much of **their value when**ever **those** who have **[with] greater private means are permitted to** use their advantages to **control the course of public debate.** For eventually these inequalities will enable those better situated to exercise a larger influence over the development of legislation. In due time they are likely to acquire a preponderant weight in settling social questions, at least in regard to those matters upon which they normally agree, which is to say in regard to those things that support their favored circumstances. **Compensating steps must,** then, **be taken to preserve the fair value for all of the equal political liberties.** A variety of devices can be used. For example, in a society allowing **private ownership** of the means of production, property and wealth **must** be kept widely distributed and government monies provided on a regular basis to **encourage free public discussion.** In addition, political parties are to be made independent from private economic interests by allotting them sufficient tax revenues to play their part in the constitutional scheme. (Their subventions might, for example, be based by some rule on the number of votes received in the last several elections, and the like.) What is necessary is that **political parties [must] be autonomous with respect to private demands, that is, demands not expressed in the public forum and argued for openly by reference to a conception of the public good.** If society does not bear the costs of organization, and party funds need to be solicited from the more advantaged social and economic interests, the pleadings of these groups are bound to receive excessive attention. And this is all the more likely when the less favored members of society, having been effectively prevented by their lack of means from exercising their fair degree of influence, withdraw into apathy and resentment.

C) the allowance of gun ownership can’t be grounded in shared norms

Kautzer 15, Chad. (University of Colorado Denver) Good Guys with Guns: From Popular Sovereigntyto Self-Defensive Subjectivity. https://www.academia.edu/11636616/Chad\_Kautzer\_Good\_Guys\_with\_Guns\_From\_Popular\_Sovereignty\_to\_Self-Defensive\_Subjectivity\_Law\_and\_Critique\_26\_2015\_173\_187 8 April 2015. Springer Science. NP 4/7/16.

The white demographic in the United States is in decline and projected to lose its majority status in less than 30 years. This tendency, together with gains in social, economic and political power by women and racial minorities in the United States over the past 50 years—personiﬁed by the ﬁrst black president sworn into ofﬁce in2008—has contributed to a profound and widespread condition of white anxiety. The state is inevitably reducing the ‘public and psychological wage’ of whiteness about which Du Bois spoke, albeit in ﬁts and starts. This represents the loss of the very foundation of white identity, particularly among poor and working-class whites, and as Wendy Brown notes, ‘aggression is what emerges in the space of unmourned losses’ (Brown 2006, p. 31). Indeed, this is a stubborn, agitated andaggressive form of subjectivity, perpetually suspicious and perceiving threats allaround. For this reason, Hegel’s description of the pathologies of legal freedom arising from normative indeterminacy, rather than Honneth’s, is more ﬁtting(Honneth 2000, 2010, 2014).Honneth views the generation of ‘‘diffused moods of depression or a loss of orientation’’ (Honneth 2014, p. 87) as evidence of a social pathology—somethingsimilar to E´mile Durkheim’s notion of anomie . The notion of normative indeterminacy is taken from Hegel, who argued that it is only through moral duty, rather than legal right, that one is ‘liberated from that indeterminate subjectivity which does not attain existence [ Dasein ] or the objective determinacy of action, but remains within itself and has no actuality’ (Hegel 1991, §149, p. 192). That is, our recognition of normative obligations is a reﬂection of our identiﬁcation with ethical norms and values we share with others. Such recognition is necessary for freedom—what Hegel calls substantial or afﬁrmative freedom—which cannot be achieved through abstract right alone. The latter is what Marx refers to when describing liberty as the ‘separation of man from man’ (Marx 1979, p. 42). This act of separation is a form of deprivation, an expulsion of the social conditions and informal forms of identiﬁcation necessary for social cooperation, communication,and conﬂict resolution. 11 In the Phenomenology of Spirit , Hegel describes the pathology of legal freedom not as melancholic, but as antagonistic and engendering rage within a ‘soulless community’ (Hegel 1977, §477, p. 290), constituted by merely negative relation-ships (Hegel 1977, §482). Rather than being grounded in a number of pre-reﬂexively shared norms and values—i.e. having one’s actions and judgmentsmediated by what Hegel calls ethical substance —the essence of the person is derived from an unmediated identiﬁcation with abstract right. Such persons are thus ‘unfettered’ by social norms, are self-righteous insofar as they have only absolute certainty of their abstract right, and thereby ‘become elemental beings raging madly against one another in a frenzy of destructive activity. Their impotent self-consciousness is the defenseless enclosed arena of their tumult’ (Hegel 1977, §481,p. 292). The externalization and formalization of social relations, inhibiting social recognition, renders the self indefensible —the great paradox of self-defensivesubjectivity, whose fortiﬁcations threaten rather than protect the social conditions of freedom. Subjectively, self-defensive subjects have difﬁculty shifting out of a strategic and rights-centric attitude toward others. The right to bear arms becomes an imperative to bear arms, for there is no alternative, normative framework from which to adjudicate the need to exercise one’s right. From the merely legal point of view, says Honneth, ‘‘they cannot carry out the kind of reﬂection or activity required for realizing their life aims’’ (Honneth 2014, p. 85). Social and institutional spaces where ﬁrearms are prohibited, so-called ‘gun-free zones’, are condemned as an affront to freedom itself, for no other normative considerations or potentiallyconﬂicting rights are taken into consideration. Why one would carry a gun is simply because one has the right to do so—one is able to invoke rights, but not reasons. Asa newly minted Constitutional right, this identiﬁcation of armed self-defense with freedom has produced a wave of legislation facilitating its institutional accommo-dation, from schools, churches and bars, to parks, government buildings, and playgrounds The liberal critique of this development focuses on competing rights and public goods, particularly public health: it is not the right per se, and certainly not its function in rearticulating social structures and identities of race and gender, that are rejected by liberal critics. Given that increased violence is, according to the a forementioned NRA line of reasoning, only evidence of the need for more ‘goodguys with guns’, pitting public health against self-defensive freedom is, politically speaking, a losing battle. What is more troubling, however, is the failure of the Left to resist, much less even articulate a critique of, these social, political, and legislative developments. Such developments are motivated by and contribute to the perpetuation of a political subjectivity, and its related notions of freedom, security and sovereignty, that are antithetical to Left projects. This silence is curious, given that so many recent social movements on the Left have been horizontally organized, marginalizing or completely rejecting rights-centric discourse as well as hierarchical and representational politics. The tendency of these movements has thus been to reinforce non-juridical subject formation and emphasize the physicality of political association and action. The operative form of social recognition in these movements is oriented toward (non-juridical) subject-participants, rather than rights-bearing persons. Arendt’s notion of the spaces of appearance is helpful here, for it captures the intersubjective nature of speech and action as well as the power these generate in the constitution of the polis. Unlike the sheer externality of empirical individuality in the self-defensive subject, intersub- jective obligations and dialogical norms contribute here to the development of radically democratic values. Put another way, in the aforementioned uncoupling of the abstract and concrete movements of political liberalism, the concrete social self is being cultivated in these horizontalist social movements. My suspicion is that the Left’s lack of resistance to self-defensive subject formation is due to a combinationof geographic separation (i.e. horizontalist movements are largely conﬁned to urbancenters) and sympathy for the community defense practices popularized by the Black Panther Party and Deacons for Defense and Justice in the 1960s, whichinvolve very different social relations, forms of identiﬁcation, and thus political subjectivity. If this is correct, then a more developed critique of self-defensive subjectivity than I can provide here will need to take up these concerns in turn.

# Framework Interaction

## Generic Answers

### A2 No Autonomy

1. Autonomy is the ability to make a choice – external factors that influence our perspective of the world can’t be part of our identity since we will be influenced by those factors, rather than our own convictions
2. The point is that we’re divorced from our particular ends – we can still understand what it would mean to be autonomous, which is the only relevant impact; only this conception of autonomy allows us to recognize others

### A2 ‘Impossible to Know What It’s Like’

1. No – we have a clear understanding of what constitutes an arbitrary and nonarbitrary part of identity, that’s what constitutes people behind the veil
2. Your framework is worse – \_\_\_\_
3. This is only mitigatory – just because my framework’s hard to use doesn't’ mean it’s wrong. *It’s better to solve the correct problem by hand than the wrong problem using a calculator*

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### A2 “Rationality Behind Veil= Impossible”

1. Rationality’s not reliant on our own self-interest – we can recognize general interests behind veil
2. The veil adapts to what’s necessary to make choices, so rationality’s included

### A2 Abstraction

1. No - I recognize particular identities and how they ought to shape decisions – I just say our motivations based on self-interest aren’t relevant – abstraction is only bad if it ignores the actual.
2. T- a correct theory must what exists and what we want to exist – Rawls recognizes how we view the world and the deficits within it, as well as what it would look like
3. T – abstraction from our own particular interests is key; cognitive dissonance means that we must divorce ourselves from our contingent identities to criticize the impact of our actions on others
4. T - Rawls’ philosophy forces oppressors to imagine viewpoints of the oppressed - that’s key to prevent oppression

Kluth 15, Andreas. “The Veil of Ignorance: A Great Thought Experiment.” Web. Accessed 13 Jan. 2015. <[http://andreaskluth.org/2009/10/28/the-veil-of-ignorance-another-great-thought-experiment](http://andreaskluth.org/2009/10/28/the-veil-of-ignorance-another-great-thought-experiment" \t "_blank)>.

Slavery **in 19th-century America**. ¶ Slave owners considered America free and fair and were prepared to go to war for that “freedom”. That’s because the **slave owners** assumed that they were, well, slave owners. **Using purely utilitarian reasoning**, they **might have concluded that slavery produced the maximum pleasure of the greatest number of people (**ie, **the white majority) and was therefore right**. **But if they had played Rawls’ thought experiment, they would have had to imagine that they might** instead **be slaves.** Suddenly, **slavery no longer looks good**

This outweighs - 1) immediacy – imagining the views of the oppressed is key to self-reflection 2) longevity – Rawls generates a comprehensive method that lets us discover oppressive actions; just saying we should ‘minimize oppression’ can be misappropriated – people said the white man’s burden minimized oppression 3) scope – Rawls allows us to determine what social structures are appropriate, which creates a frame for evaluating actions; principles that rely on intuitions in a given moment are easily misused 4) Interrogating justice thru a lens of fairness solves discrimination.

**Follesdal 14** Andreas Follesdal, “John Rawls’ Theory of Justice as Fairness.” *Philosophy of Justice, Contemporary Philosophy* 2014 p. 311-328 MR 3/30/16

How can the theory of justice as fairness justify such detailed criteria for fair social institutions? Rawls does not attempt to derive these principles from a more fundamental principle. Instead, he argues that these principles are more reasonable than the utilitarian principle of utility maximization. When we think carefully about our perceptions, we see that many immediate arguments for or against different policies are unsatisfactory. **That a certain fairness principle will favour a particular social group may easily be regarded as an unfair argument** – **the role of principles of distributive justice is** indeed instead precisely **to assess whether such discrimination is fair**. The religious and normative **diversity in society** also **prevents** some **arguments for proposed principles, such as to promote a certain belief**, or to foster certain attitudes or certain capabilities.

### A2 Fair Procedures ≠ Fair Conclusions

1. Non-responsive – procedures would be perfect except for arbitrary influences, removing them fixes an almost fine procedure
2. Even so, it maximizes the chance of a fair outcome; without correct procedures results are always random

## Constitutionality

#### Framework overview: This devolves to the AC: A. Contracts are only in a legitimate in a society where people have the ability to consent; for example, if I put a gun to your head you would not be bound to what you said – restrictions on ability to format identity in the squo mean the current constitution can’t bind action. B. The Constitution must be interpreted so the NC just begs the question – we ought to interpret it consistently with the AC framework. C. Even if the constitution should apply generally, the AC offense proves there’s an exception. This outweighs – the constitution can be amended, but rights aren’t conditionally valuable

## Polls

#### Ordinary language is subject to corruption and can not be the basis of ethics since it is in need of philosophical correction

Wood 90 summarizes Hegel, Allen W. *Hegel’s Ethical Thought.* Cambridge University Press. 1990. NP 3/29/16.

Hegel makes it plain that for philosophical purposes, the technical mean­ ing should always be primary. Hegel takes himself to be engaging in the uniquely philosophical task of deducing or developing categories or thought- determinations out of one another. He believes that the system of philosophi­ cal categories is in fact "stored in language," and hence (perhaps to our as­ tonishment) Hegel denies that philosophy needs any special terminology (WL 5: 20/31-32). At the same time, he realizes that ordinary language re­ flects ordinary thinking, which is often confused, shallow, and erroneous, in need of philosophical correction. Appeals to ordinary usage are therefore entirely out of place in philosophy. "Rather the main thing in philosophical cognition is the necessity of the concept, and the process of having come to be as a result [is] its proof and deduction. Since the content is necessary for 72 ￼HAPPINESS itself, the second thing is to look around for what corresponds to it in [ordi­ nary] conceptions and language" (PR § 2R).

## Coherentism

#### Ordinary language is subject to corruption and can not be the basis of ethics since it is in need of philosophical correction

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## Util

Extend constructivism – util fails: a. preference satisfaction can never generate moral principles since it doesn’t involve reflection, only our immediate inclinations, which is key since ethics arises from our ability to question if what we are doing is correct b. you can never imagine a collective good, only a majority one since the minority’s viewpoints are erased, c. util is a framework for the future since it evaluates what should happen in response to a given action, but can’t evaluate the validity of the action itself.

Extend justifiability – this takes out util a. joint principles require empathy for others and moves beyond self-interest, but util can’t foster that since people will discard viewpoints of minorities whenever conflicts arise. B. no legitimate principles can exist in a utilitarian society

Wenar[[2]](#footnote-2)

Moreover, Rawls says, a society governed by [Rawlsian] his two principles has other advantages over a utilitarian society. Securing equal basic liberties for all encourages a spirit of cooperation among citizens on the basis of mutual respect, taking divisive conflicts about whether to deny liberties to certain groups off of the political agenda. By contrast a utilitarian society would be riven by mutual suspicions, as different groups put forward highly speculative arguments that average utility could be increased by implementing various partisan policies. The two principles, by requiring permanent equal liberties for all, increase social harmony by making it much easier for justice to be seen to be done. The balance of considerations in favor of the two principles over average utility is, Rawls claims, decisive.

c. util calc is impossible behind the veil – there’s an infinite number of consequences, so they can’t be taken into consideration, negative consequences could cancel out with each other, and individuals don’t know how to measure happiness of different people in order to arbitrate whether or not an action’s correct

Extend **Rawls 85:** we must create a fair social structure. This takes out util: A. util maximizes some aggregate of happiness, but doesn't pay attention to how that utility is distributed among members of society, which fundamentally misses the point, B. A liberal theory of justice is concerned with the separateness of persons - when you think about the common good, it is relevant how that good in distributed among persons; the sum total is irrelevant

### Util Devolves to Rawls

Util devolves to Rawls – a. empiricism proves the AC – we care about things we have already experienced by providing a basis for future experiences, but the future is epistemically inaccessible since we have not experienced it, so only the instantiation of the aff is morally relevant, b. the NC begs the question – we don’t know what the good is, only the aff clarifies. c. util devolves to rule util since principles that are used once are given legitimacy and used again later, so you must consider the legitimacy of the whole rule, not just one instantiation. That devolves to the aff – 1) we must consider inherent rights, rather than aggregative ones since otherwise individual’s particular ends are never respected since they’re viewed as means, 2) disallowing gun possession is good as a general principle – owning a gun can only inflict harm, that’s Kautzer – situational offense about reactions aren’t relevant since they don’t link to the rule’s general truth, 3) **Wenar** proves that a utilitarian society is better

### A2 “We'd Be Utilitarian Behind the Veil”

1. It’s impossible to imagine an aggregate of feelings within a given moment, so util is epistemically inaccessible.
2. We should act on the principle of insufficient reason – people

### A2 Intending Something = Acknowledging Consequences

1. You don’t necessarily know the consequences before something happens, but intentions are intrinsic to the principle, so intended harms still outweigh even if consequences are relevant
2. It’s a sequencing question. Parties deciding what principles to uphold would determine things intrinsic to an action before determining consequences, since the question of affirming a principle that disallows access to guns precedes implementation questions about what policy best disallows and prevents access to them
3. The framework is a question of social structures – i.e. whether we do or do not want handguns in society – so your focus on the implication of one instantiation of the principle is secondary

### A2 Intentions = Irresolveable

1. It’s not about the mindset of the policymaker – just what’s intrinsic to a handgun ban – that we disallow their ownership
2. Consequences are irresolveable – 1) there’s an infinite number of results of any given action, which can’t be taken into our moral calculus – that outweighs, we KNOW for sure what’s necessary for an action, but don’t know things years into the future 2) we haven’t experienced your particular consequenes so we don’t know how they’d actually impact society, 3) they’re unpredictable – we never know what will happen, so we ought to give more credence to the means of an action

### A2 Intentions = Racist

1. You don’t understand the framework - it’s not about what people want to happen, it’s about what necessarily happens; racism is never a legitimate means to an end
2. T - Util could justify horrific conclusions, since no state of affairs could be intrinsically bad from this standpoint, even genocide or gruesome torture – this makes debate unsafe by claiming any action is potentially permissible.
3. T – util can’t condemn things like slavey

Gold, Jeffrey. Utilitarian and Deontological Approaches to Criminal Justice Ethics

According to utilitarianism, an action is moral when it produces the greatest amount of happiness for the greatest number of people. A problem arises, however, when the greatest happiness is achieved at the expense of a few. For example, if a large group were to enslave a very small group, the large group would gain certain comforts and luxuries (and the pleasure that accompanies those comforts) as a result of the servitude of the few. If we were to follow the utilitarian calculus strictly, the suffering of a few (even intense suffering) would be outweighed by the pleasure of a large enough majority. A thousand people’s modest pleasure would outweigh the suffering of 10 others. Hence, utilitarianism would seem to endorse slavery when it produces the greatest total amount of happiness for the greatest number of people. This is obviously a problem for utilitarianism. Slavery and oppression are wrong regardless of the amount of pleasure accumulated by the oppressing class. In fact, when one person’s pleasure results from the suffering of another, the pleasure seems all the more abhorrent. The preceding case points to a weakness in utilitarianism, namely, the weakness in dealing with certain cases of injustice. Sometimes it is simply unjust to treat people in a certain way regardless of the pleasurable consequences for others. A gang rape is wrong even if 50 people enjoy it and only one suffers. It is wrong because it is unjust. To use Kant’s formulation, it is always wrong to treat anyone as a mere means to one’s own ends. When we enslave, rape, and oppress, we are always treating the victim as a means to our own ends.

### A2 No Distinction b/w Present & Future Generations

1. T- This affirms – if there’s no present between present and future actors behind the veil, then it’s about the principle of disallowing handguns, which has different consequences depending on the time, so consequences don’t matter
2. There is – it relies on deriving principles for our current society, so it relies on present actors
3. No impact – even if you put a future person behind the veil, you’d divorce them from their contingent motivations, so they’d make the same decision

### A2 Parfit/No Identity

#### Purely naturalistic understandings of humanity fail; our understanding of ethics arises from our recognition of others as determinate

Freeman 3, Samuel. "7 Congruence and the Good of Justice." The Cambridge Companion to Rawls (2003): 277.

The crucial question then is, Why does Rawls contend that the sense of justice “belongs to our nature,” and what does this obscurity mean? In Theory Rawls adopts Kant’s position, that **persons are, by** their **nature, free, equal and rational** and that in a WOS they publicly conceive of themselves in this way. **The “nature” of free, equal, and rational beings is** their **“moral personality”** (TJ, Sections 77, 85). Moral personality is **defined by** the moral powers, which are in effect the **capacities for practical reasoning as applied to matters of justice.** These capacities include (a) a capacity for a sense of justice (the ability to understand, to apply, and to act on and from requirements and principles of justice) as well as (b) a capacity for a conception of the good (to form, to revise, and to pursue a rational plan of life).40 Why are these capacities so important? Rawls’s idea is that, from a practical point of view**, when acting as agents** (and especially in cooperative contexts) **we** normally **see ourselves and** each **other[s] not just in terms of** our **particular identities, ends, and commitments;** more fundamentally **we conceive** of ourselves and othersas **free moral agents capable of determining** our **actions, adjusting** our **wants, and shaping** our **ends –** all according to the requirements of practical principles. And, “**since we view persons as capable of mastering and adjusting** their wants and **desires, they are** held **responsible** for doing so.”41 Now the **bases for** people’s **conception of themselves as free and responsible** moral **agents** and as equals **are the moral powers.**42 A person without these capacities is not recognized by others as answerable for his or her acts or ends (morally or legally) or deemed capable of taking an active part in social cooperation.43 Moreover, we do not see our lives as a matter of happenstance simply imposed on us by our situations. Instead, within the limits of the circumstances we confront, **we** normally **see our actions and** our **lives as under our control**. It is **by virtue of** the **capacities for moral personality** that **we are able to** decide whatends and activities we should pursue and can **fashion** these **ends into a** coherent and cooperative life **plan that accords with principles of** rational **choice and** principles of **justice.** So **it is by virtue of** the **moral powers as capacities to act upon rational and moral principles that we are able to give “unity” to** our **lives, and** so to our **selves,** by adopting and pursuing a rational plan of life.44 It is because of their central role in making possible our agency that Rawls says that the moral powers “constitute our nature” as moral persons. “Moral person” and “moral personality,” terms found in both Locke and Kant, are to be taken here in the seventeenth- and eighteenth-century sense; they refer to agents and their capacities for agency. To say these powers “constitute our nature” means that, when we think of ourselves practically as agents engaged in planning our pursuits in the context of social cooperation, then **what is most important to our being an agent** for these purposes **are the moral powers. Contrast thinking of oneself purely naturalistically as a physical organism or object whose behavior is determined by a combination of forces. This is not how we see ourselves in practical contexts** (though some might occasionally think of themselves in this way from a purely naturalistic point of view). **That persons are free and responsible** agentscapable of controlling their wants and answering for their actions is something we just go on from a practical standpoint.45 This belief **provides our orientation in the realm of human activity.** And it is hard to see how it could be any other way. For otherwise we must see ourselves and one another as natural objects beyond the realm of responsibility.46

## Kant

### A2 Hijacks

1. People wouldn’t be Kantian behind the veil – a) individuals would not act as if every other would make the same choice as them, since the structure of society would be to their discretion, b) we can’t abstract away from every aspect of society – part of justification is appealing to socially situated individuals – even if people don’t know their own identity, they know they’re in society, c) Kant relates to what’s justifiable for individuals, not the government

### Devolves

#### Autonomy is what exists behind the veil, not in the abstract devoid of empirical reality

Freeman 3, Samuel. "7 Congruence and the Good of Justice." The Cambridge Companion to Rawls (2003): 277.

There is one final claim to consider (12 in Section III), and the congruence argument is complete. What does it mean to realize the conception of the person as a free and equal rational being in one’s rational plan? Rawls says, Kant held, I believe, that **a person is acting autonomously when** the **principles of** his **action are chosen** by him **as the most adequate** possible **expression of** his **[their] nature as a free and equal** rational **being.** (TJ, p. 252/222 rev.; cf. TJ, p. 584/511) In the Kantian interpretation of justice as fairness, Rawls assumes that **citizens in a well-ordered society “regard** moral **personality ... as** the **fundamental** aspect of the self” (TJ, p. 563/493 rev.); as a result **they desire to be fully autonomous** agents. **Autonomy,** in Rawls’s Kantian account, **requires acting for the sake of principles that we accept,** not because of our particular circumstances, talents, or ends, or due to allegiance to tradition, authority, or the opinion of others, but **because** these **principles give expression to our** common **nature as free and equal** rational beings(TJ, p. 252/222 rev., p. 515–16/452 rev.). **By affirming their sense of justice, members [are]** of a well-ordered society **accomplish their conception of themselves as** free, that is, asmoral **agents** who are **free from** the **eventualities of their circumstances,** their upbringing, **and** their **social position** “Acting from this precedence [of the sense of justice] **[this] expresses** our **freedom from contingency** and happenstance” (TJ, p. 574/503 rev.). And **this is what it is to be autonomous.** So, “**When** the **principles of justice ... are affirmed and acted upon** by equal citizens in society, **citizens then act with full** autonomy.”50 Full autonomy (as opposed to simply “rational autonomy”) is then the ultimate consequence of persons realizing their nature by making the sense of justice a highest-order desire in their rational plans. And this means, given the rest of Rawls’s argument, that autonomy is an intrinsic good. So Rawls concludes: “[T]his sentiment [of justice] reveals what the person is, and to compromise it is not to achieve for the self free reign but to give way to the contingencies and accidents of the world” (TJ, p. 575/503 rev.). It reveals “what the person is” practically, as a moral agent, and so to compromise it is to compromise one’s free agency.

# Contention Frontlines

### A2 Property Rights Hijacks

#### Property rights aren’t prior to the original position, they’re under evaluation since their distribution is arbitrary. Individuals would not want absolute property rights: a. some in society are denied the ability to set ends because of their lack of access to external objects, b. property as a principle wouldn’t be maximized – e.g. no one would decide to own other people – so my contention’s a constraint on what property’s legitimate, c. the value of property rights is conditional on the object’s use to let you pursue a legitimate end, but there is no legitimate end that can be set with guns, d. pursuing one’s conception of the good does not rely on rights to every external object they currently possess

Abplanalp 10. Abplanalp, Edward, "BACKGROUND ENVIRONMENTAL JUSTICE: AN EXTENSION OF RAWLS'S POLITICAL LIBERALISM" (2010). Philosophy Dissertations, Theses, & Student Research. Paper 2. http://digitalcommons.unl.edu/philosophydiss/2

Before moving on to the legislative stage, we should note that the Rawlsian system is compatible with the Lockean rights of life, liberty, and property. However, the charter agreed to by the contracting parties during their constitutional convention will not protect property rights as traditionally understood by libertarians. Rather, following Rawls, the framework I am laying out distinguishes between the right to hold personal property and the right to own and control non-personal property. While the former is a basic freedom that must be constitutionally protected in any society well-ordered by the Rawlsian framework, the latter is not. Specifically, Rawls argued that one should not view the following as basic property rights:¶ (i) the right to private property in natural resources and means of production generally; including rights of acquisition and bequest;¶ (ii) the right to property as including the equal right to participate in the control of the mean of production and of natural resources, both of which are to be socially, not privately, owned.33¶ But why should the system under consideration not treat the right to own and control society‘s means of producing goods and services as a fundamental constitutionally protected right? The answer is that free and equal citizens can still develop and pursue a reasonable conception of the good without the absolute right to own a phone company or a coalmine. Denying a citizen the basic property right[s] to a river or a forest will not undercut the social basis of her self-respect. But unlike owning the means of production, personal property is undoubtedly required for reasonable citizens to pursue their conception of the good.

#### e. property’s only a means, but if you don't have the ability to set other ends it doesn’t matter, so ensuring a basic structure where rights are justly distributed precedes

1. The National Crime Victimization Survey (NCVS) is the primary source of information in the United States on the nature and extent of criminal victimization. The NCVS collects information on nonfatal personal crimes (rape or sexual assault, robbery, aggravated and simple assault, and personal larceny) and household property crimes (burglary, motor vehicle theft, and other theft) both reported and not reported to police. It is conducted by the U.S. Census Bureau for the Bureau of Justice Statistics. NCVS is a self-report survey in which respondents are asked about victimizations experienced during the prior 6 months. Data are obtained from a sample of about 90,000 households, comprising nearly 160,000 individuals which are weighted to be nationally representative. Response rates are typically over 85% for both households and eligible persons. Each household is interviewed twice during the year. Household remain in the sample for 3 years, and eligible persons in these household are interviewed every six months for a total of seven interviews. The first interview is typically in-person with subsequent interviews by phone. The NCVS is administered to household members age 12 or older. Excluded are persons living in military barracks and institutional settings, such as correctional facilities. Victimizations that occurred outside of the United States (less than 1% of all victimizations) are excluded. Data for the current study come from the NCVS for a five year period, 2007–2011. To examine the epidemiology of self-defense gun use, we examined only incidents that involved some degree of personal contact between the offender and the victim—incidents in which a selfprotective action was possible. This includes all assaults (both sexual and non-sexual), robberies, in-person verbal threats and purse snatching, as well as a fraction of burglaries and other thefts. This same subsample of crimes is used to examine the effectiveness of selfdefense gun use and other self-protective actions on the likelihood of victim injury. To examine the effect of self-defense gun use on property loss, we examine a different subset of crimes—those where the primary intent was to steal property. This subset includes all robberies, personal contact larcenies and personal contact burglaries, but not assaults, sexual assaults or verbal threats. Victims are asked, “Was there anything you did or tried to do about the incident while it was going on?” If they say yes, then they are asked “What did you do?” and the answer is classified into one of sixteen types of self-protective action. Victims are then asked “Anything else?” until they have volunteered all the self-protective actions taken. Thus each victim could name many actions. In our analysis, the variable for each action indicates whether the victim did or did not take that particular action. We reduced the sixteen actions to thirteen by combining “Attached offender with a gun” and “Threatened offender with a gun” into “Attacked or threatened with gun” and likewise for “other weapon” and “without weapon.” To ensure that significance tests were not distorted, we used the NCVS “incident weights” but then adjusted them so that the apparent sample size was equal to the actual unweighted sample size. While Lohr and Liu (1994) find that weights are not always necessary when using the NCVS for complex analysis, they also say that weighted estimates are more robust to misspecification of the model and that standard errors are generally higher, leading us to conclude that weighting is the more conservative choice. We used chi-square tests to test for significance. For specific self-defense actions, significant tests compared taking that specific action to not taking that specific action. We defined “at home” as inside respondent's own lodging (dwelling, attached garage, enclosed porch, detached building on own property, vacation home/second home). The NCVS divides locations into rural and urban; because of the perceived high rates of crime in many large cities, we subdivided the urban group into locations with population b 1,000,000 and with population ≥1,000,000 (large urban). Victims were classified as being injured after they took protective action if they were injured concurrently or after taking protective action. We analyzed the data both including (shown in tables) and not including (not shown) incidents in which the victim did not take any protective action. We define “crimes of violence” as assaults, sexual assaults and robberies; not included as crimes of violence are verbal threats, pick pocketing and property crimes. In multivariate analyses we control for age, gender, event occurring at home or away from home, in rural, urban or large urban areas, whether the offender was a male or female, whether the offender had a gun, and thirteen specific self-protective actions the victim might take. As the NCVS data are publicly available and do not contain personal identifiers, the Harvard School of Public Health Institutional Review Board deemed this study to be exempt. [↑](#footnote-ref-1)
2. Leif (Leif Wenar is chair of ethics at King's College London) “John Rawls” The Stanford Encyclopedia of Philosophy Published Mar 25th 2008, Substantive revision Sep 24th 2012 [↑](#footnote-ref-2)